

Title 7, Chapter 103, PRODUCTS CONTROLLED

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Chapter 103: PRODUCTS CONTROLLED

Subchapter 11: SEEDS

§1041. Title

This subchapter shall be known and may be cited as the "Maine Seed Law."

§1042. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 541, Pt. A, § 65 (amd).]

1. Advertisement. "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the meaning of this subchapter.

2. Agricultural seeds. "Agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds, except seeds of cereals grown in Maine and sold directly from grower to grower and not labeled as seed.

3. Labeling. "Labeling" includes all labels and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

4. Noxious-weed seeds. "Noxious-weed seeds" shall be divided into 2 classes, primary noxious-weed seeds and secondary noxious-weed seeds. The commissioner may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds, after public hearing, that such additions or subtractions are within the respective definitions.

5. Person. "Person" shall include any individual, partnership, corporation, company, society or association.

6. Primary noxious-weed seeds. "Primary noxious-weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control by ordinary good cultural practice. In this State they are the seeds of Bindweed (*Convolvulus arvensis*), Quackgrass (*Agropyron repens*), Canada Thistle (*Cirsium arvense*), Nut Grass (*Cyperus esculentus*) and Wound Wort (*Stachys polustris*).

7. Secondary noxious-weed seeds. "Secondary noxious-weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns or gardens, but can be controlled by good cultural practice. In this State they are the seeds of Dodder (*Cuscuta* spp.), Horsenettle (*Solanum carolinense*), Wild Mustard (*Brassica* spp.), Wild Garlic (*Allium vineale*), Wild Onion (*Allium canadense*), Wild Radish (*Raphanus raphanistrum*), Perennial Sowthistle (*Sonchus arvensis*), Corncockle (*Agrostemma githago*), Buckhorn Plantain (*Plantago lanceolata*) and Yellow Rocket (*Barbarea vulgaris*).

7-A. Tree and shrub seeds. "Tree and shrub seeds" shall include the seeds of woody plants commonly known and sold as tree and shrub seeds in this State.

[1969, c. 42, § 2 (new).]

8. Vegetable seeds. "Vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

9. Weed seeds. "Weed seeds" shall include the seeds of all plants other than other crop seed and pure seed and shall include

Title 7, Chapter 103, PRODUCTS CONTROLLED

noxious-weed seeds.

PL 1969, Ch. 42, §2 (AMD).

PL 1979, Ch. 541, §A65 (AMD).

§1043. Label requirements

Each container of agricultural, vegetable or tree and shrub seeds which is sold, offered for sale or exposed for sale within the State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information: [1969, c. 42, § 3 (amd).]

1. **Agricultural seeds.** For agricultural seeds:

A. Commonly accepted name of kind or kind and variety of each agricultural seed component in excess of 5% of the whole and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or "mixed" shall be shown conspicuously on the label;

B. Lot number or other lot identification;

C. Origin, if known, of alfalfa, red clover and field corn, except hybrid corn. If the origin is unknown, that fact shall be stated;

D. Percentage by weight of all weed seeds;

E. The name and approximate number of each kind of secondary noxious-weed seed:

(1) Per ounce in *Agrostis* spp., *Poa* spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed canary grass, Dallis grass, ryegrass, foxtail millet, alfalfa, red clover, sweetclovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp. and other agricultural seeds of similar size and weight or mixtures within this group; and

(2) Per pound in proso, Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group or any mixtures within this group.

All determinations of noxious-weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner under this subchapter;

F. Percentage by weight of agricultural seeds, which may be designated as "crop seeds," other than those required to be named on the label;

G. Percentage by weight of inert matter;

H. For each named agricultural seed:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) "Total germination and hard seed" may be stated as such, if desired;

(4) The calendar month and year the test was completed to determine such percentages;

I. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

2. **Vegetable seeds.** For vegetable seeds:

A. Name of kind and variety of seed;

B. For seeds which germinate less than the standard last established by the commissioner:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) The calendar month and year the test was completed to determine such percentages;

(4) The words "Below Standard" in not less than 8-point type.

C. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

3. **Tree and shrub seeds.** For tree and shrub seeds:

A. Name of kind and variety; [1969, c. 42, § 4 (new).]

B. The percentage by weight of pure seed; [1969, c. 42, § 4 (new).]

Title 7, Chapter 103, PRODUCTS CONTROLLED

C. The percentage of germination; [1969, c. 42, Â§ 4 (new).]

D. The year of collection of such seed; [1969, c. 42, Â§ 4 (new).]

E. The specific locality, state and county in the United States or nearest equivalent political unit in the case of foreign countries, in which the seed was collected. [1969, c. 42, Â§ 4 (new).]

F. Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State. [1969, c. 42, Â§ 4 (new).]

[1969, c. 42, Â§ 4 (new).]

PL 1969, Ch. 42, §3,4 (AMD).

§1044. Prohibitions

1. Test for germination; labels; ads; noxious weeds. It shall be unlawful for any person to sell, offer for sale or expose for sale any agricultural, vegetable or tree and shrub seeds within this State:

A. Unless the test to determine the percentage of germination required by section 1043 shall have been completed within a 9-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale or offering for sale or transportation;

B. Not labeled in accordance with this subchapter, or having a false or misleading label;

C. Pertaining to which there has been a false or misleading advertisement;

D. Containing primary noxious-weed seeds not in accordance with tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner;

E. If noxious-weed seeds are present singularly or collectively in excess of 500 per pound. [1969, c. 42, § 5 (amd).]

2. Misuse of labels; false ads; obstructions; stop-sales. It shall be unlawful for any person within this State:

A. To detach, alter, deface or destroy any label provided for in this subchapter, or the rules and regulations promulgated by the commissioner thereunder, or to alter or substitute seed in any manner that may defeat the purposes of said subchapter;

B. To disseminate any false or misleading advertisement concerning agricultural, vegetable or tree and shrub seeds in any manner or by any means; [1969, c. 42, § 6 (amd).]

C. To hinder or obstruct in any way any authorized person in the performance of his duties under this subchapter;

D. To fail to comply with a "stop-sale" order. [1969, c. 42, § 6 (amd).]

PL 1969, Ch. 42, §5,6 (AMD).

§1044-A. Licensing requirements

For the purpose of providing revenues to defray the expense of the inspection and analysis prescribed in this subchapter, the commissioner shall license seed labelers. The commissioner shall prescribe the license application form. License fees established under this subchapter may be collected on other than an annual basis if the license required in this section is issued in conjunction with a nursery operator's license issued under section 2171. [1999, c. 84, §2 (amd).]

1. Retail dealer's license.

[1995, c. 435, §2 (rp); §3 (aff).]

2. Seed labeling license. A person, firm or corporation may not label agricultural, vegetable and tree and shrub seeds, except seed potatoes, for planting purposes for distribution or sale in this State without having obtained a seed labeling license. The seed labeling licensee is responsible for the accuracy of the seed contents of all packages, boxes and bags of seeds labeled by the licensee. The fee for a seed labeling license is \$50 annually. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

[2005, c. 12, Pt. EEE, §2 (amd).]

3. Disposition of fees. Fees received for licenses established under this section shall be paid to the Treasurer of State for deposit in

Title 7, Chapter 103, PRODUCTS CONTROLLED

the General Fund.

[1979, c. 672, Pt. A, §25 (new).]

PL 1979, Ch. 672, §A25 (NEW).

PL 1995, Ch. 435, §1,2 (AMD).

PL 1995, Ch. 435, §3 (AFF).

PL 1997, Ch. 454, §3 (AMD).

PL 1999, Ch. 84, §2 (AMD).

PL 2005, Ch. 12, §EEE2 (AMD).

§1045. Exemptions and violations

Sections 1043 and 1044 shall not apply to seed or grain not intended for sowing purposes, nor to seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to this subchapter. [1977, c. 696, Â§ 87 (rpr).]

No person shall be deemed in violation of this subchapter for having sold or offered or exposed for sale in this State any agricultural vegetable or tree and shrub seed which were incorrectly labeled or represented as to kind, variety, type or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin if required, and to take such other precautions as may be necessary to insure the identity to be that stated. [1977, c. 696, Â§ 87 (rpr).]

Violation of this subchapter is a civil violation for which the following forfeitures may be adjudged. [1977, c. 696, Â§ 87 (rpr).]

1. First violation. For the first violation, a forfeiture not to exceed \$100; and

[1977, c. 696, Â§ 87 (new).]

2. Subsequent violation. For each subsequent similar violation, a forfeiture not to exceed \$250.

[1977, c. 696, Â§ 87 (new).]

PL 1969, Ch. 42, §7 (AMD).

PL 1977, Ch. 696, §87 (RPR).

§1046. Duties of commissioner

It shall be the duty of the commissioner, who may act through his authorized agents:

1. Inspection. To sample, inspect, cause to be analyzed or tested, agricultural, vegetable or tree and shrub seeds transported, sold or offered or exposed for sale within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural, vegetable or tree and shrub seeds are in compliance with this subchapter, and to notify promptly of any violation, the person who transported, sold, offered or exposed the seed for sale;

[1969, c. 42, § 8 (amd).]

2. Rules and regulations. To prescribe and, in a manner consistent with the Maine Administrative Procedure Act, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, test and examination of agricultural, vegetable or tree and shrub seeds, and the tolerances to be followed, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this subchapter.

[1977, c. 694, § 113 (amd).]

PL 1969, Ch. 42, §8 (AMD).

PL 1977, Ch. 694, §113 (AMD).

§1047. Powers

For the purpose of carrying out this subchapter, the commissioner or his duly authorized agents shall have authority:

1. Stop-sale orders. To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural,

Title 7, Chapter 103, PRODUCTS CONTROLLED

vegetable or tree and shrub seeds which the commissioner finds is in violation of any of the provisions of this subchapter, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. The issuance of such an order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. No "stop-sale" order shall be issued or attached to any lot of seed without first giving the owner or custodian of such seed an opportunity to comply with the law. The owner or custodian of seeds which have been denied sale by a "stop-sale" order shall have the right to appeal from such order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order. This subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this subchapter.

[1977, c. 694, § 114 (amd).]

2. Employ qualified persons. To employ qualified persons under the Civil Service Law and to incur such expenses as may be necessary to carry out this subchapter; and

[1985, c. 785, Pt. B, § 44 (amd).]

3. Cooperate with Federal Government. To cooperate with the Federal Government in seed law enforcement.

PL 1969, Ch. 42, §9 (AMD).

PL 1977, Ch. 694, §114 (AMD).

PL 1985, Ch. 785, §B44 (AMD).

§1048. Seizure

Any lot of agricultural, vegetable or tree and shrub seeds not in compliance with this subchapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the locality in which the seed is located. In the event that the court finds the seed to be in violation of this subchapter, and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled or otherwise disposed of as provided in this subchapter. In no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with this subchapter. [1969, c. 42, § 10 (amd).]

PL 1969, Ch. 42, §10 (AMD).